IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD JANUARY 2007

Crl.MC.No. 2887 of 2006()

PETITIONER/ACCUSED:

MATHEW VARGHESE, S/O. VARGHESE,
KARAYILPARAPPANTHANATHU HOUSE,KOOTTIKKAL VILLAGE,
KANJIRAPPALLY TALUK.

BY ADV. SRI.SAJAN VARGHEESE K.

RESPONDENTS/COMPLAINANTS/STATE:

---

1. STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
PALAKKAD TOWN NORTH POLICE STATION, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. P.S. SASIKUMAR, S/O. SIVAN NAIR,
PROPRIETOR, SARIGA APPARELS, PRIYADARSHINI ROAD,
KOPPAM, PALAKKAD.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR
ADV. SRI.P.SATHISAN

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 03/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2887 of 2006

Dated this the 3rd day of January, 2007

ORDER

This Crl.M.C is filed by the petitioner under Section 482 Cr.P.C to quash the charge dated 13.07.2004 framed against him by the learned Chief Judicial Magistrate, Palakkad.

2. The crux of the allegation is that the petitioner had entered into a transaction for the sale of a motor vehicle. He had induced the victim to part with an amount of Rs.67,500/-. The complainant was induced to part with that amount on the basis of the false representations regarding the genuineness of the vehicle. It was found to be a vehicle having a forged chassis number. In these circumstances, it is alleged that the petitioner had committed the offence punishable under Section 420 I.P.C.

3. The learned Magistrate, evidently after hearing the parties, had chosen to frame charges under Section 240 Cr.P.C. Charges were framed on 13.07.2004. Long later, the petitioner has come to this Court with the present application on 18.09.2006. The prayer is that the proceedings may be quashed.

4. Why did not the petitioner challenge the charge framed by the court on 13.07.2004 by filing an appropriate

application for revision ? Why did the petitioner wait from 13.07.04 till 18.09.06 to file this Crl.M.C ? No satisfactory answers are forthcoming.

5. The proceedings have been initiated on the basis of a private complaint filed by the 2nd respondent herein. That complaint was referred to the police under Section 156(3) Cr.P.C. It is after completing the investigation in that crime that the police had filed a final report, on the basis of which cognizance was taken by the learned Magistrate.

6. The petitioner wants the proceedings to be quashed. The prayer is built on a finding which is said to be entered in Annexure-C final report filed by the police in a different crime to which the petitioner was not a party. In that it is stated that a finding was entered by the police that the chassis number was not forged.

7. Having considered all the relevant inputs, I am of the opinion that this petition, filed by the petitioner on the eve of the trial at the eleventh hour, does not deserve to be entertained. No failure or miscarriage of justice is likely to result and the petitioner who had dragged the matter from 13.07.2004 to 18.09.2006 cannot request this Court to invoke its extraordinary

inherent jurisdiction under Section 482 Cr.P.C. The petitioner must take part in the trial and raise his contentions before the learned Magistrate.

8. This Crl.M.C is, in these circumstances, dismissed. I may hasten to observe that the dismissal of this Crl.M.C will not in any way fetter the rights of the petitioner to raise all appropriate and relevant contentions before the learned Magistrate in the course of the trial.

(R.BASANT, JUDGE)

rtr/-